

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

)

Advanced Television Systems )  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

DOCKET FILE COPY ORIGINAL

To: Chief, Mass Media Bureau

**Comments of  
Creative Educational Media Corporation**

Creative Educational Media Corporation ("CEMC"), by counsel and pursuant to *Notice of Proposed Rulemaking & Notice of Inquiry ("NPRM/NOI")*, 60 *Fed. Reg.* 42130, hereby submits Comments in the above-referenced proceeding.<sup>1</sup> In support hereof, CEMC submits the following:

**Introduction**

CEMC is a non-profit, noncommercial licensee of radio stations KNYD-FM at Broken Arrow, Oklahoma, and KMSI-FM at Moore, Oklahoma.

In Paragraph 4 of the NPRM/NOI the Commission states that "[i]n deciding what rules should govern the transition to digital television, we recognize our obligation to manage the spectrum efficiently and in the public

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<sup>1</sup> By Order DA 95-2137 (released October 11, 1995) the Commission extended the time for filing Comments in this proceeding until November 15, 1995. However, the Commission was closed on November 15, 1995 due to the federal budget controversy. These Comments are being filed on the first day the Commission reopened.

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*interest and to take account of the legitimate interests of all those with a stake in the transition."* (emphasis added) Although CEMC is not currently the licensee of a television broadcast station, it nevertheless has a legitimate interest and stake in these matters because KNYD-FM is co-located with a Channel 6 television station. CEMC has been advised by its engineering and legal counsel that many FM antennas that are presently located on Channel 6 television towers will be bumped off in order to accommodate the technical needs of Advanced Television ("ATV"). CEMC's antenna for KNYD-FM is presently located on a Channel 6 television tower. As will be demonstrated herein, this creates a substantial, unexpected and costly burden upon CEMC -- there are no other existing tower sites for KNYD-FM to use that would comply with the requisite FCC criteria regarding potential TV 6 interference. Many other broadcasters are similarly situated.

**The Commission Must Consider The Impact of ATV  
Upon Radio Site Considerations and Limitations**

The television broadcast industry does not operate in a vacuum. The Commission is well aware that presently many radio and television broadcasters share tower sites and towers. In particular, noncommercial radio broadcasters such as CEMC often locate on existing television towers to defray the costs of construction and operation. Many such radio broadcasters will be faced with eviction from their current tower sites in order to accommodate either new ATV operations or the dual operations of simulcasting during the ATV transition

period. There will be resulting havoc placed upon the radio industry unless the Commission thoughtfully considers the impact of these residual ATV matters upon radio broadcasters.

Attached hereto as Exhibit No. 1 is the Engineering Statement of Clarence M. Beverage of Communications Technologies, Inc., wherein CEMC's site considerations and limitations with respect to KNYD-FM is fully described. According to Mr. Beverage, CEMC will be faced with a substantial burden in trying to find a suitable replacement transmitting site for KNYD-FM. And, KNYD is not alone. According to Mr. Beverage, "there are numerous other NCE-FM and channel 6 television collocations across the country."

**The Commission Should Adopt a Notification  
and Special Temporary or Permanent Authority Process for  
Radio Broadcasters Impacted by ATV**

If the establishment of ATV creates havoc upon the radio industry, the merits of ATV will be greatly diminished. However, there is a simple solution. Television broadcasters who elect to adopt ATV should be required to identify and provide reasonable advance notice to any communications provider/<sup>2</sup> that will be evicted from any communications tower in order to accommodate ATV. And, in situations such as CEMC's, if an alternate existing site cannot be located prior to the eviction date, or an alternate site which meets §73.525 requirements cannot be found, the Commission should be willing to entertain

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<sup>2</sup> Radio broadcasters are not the only communications providers who locate on TV towers. For example, paging and cellular providers often locate their transmitting equipment on these towers.

temporary or permanent waivers of its rules to accommodate radio broadcasters on such matters as TV 6 interference criteria or height and power requirements.

### **Conclusion**

In deciding what rules should govern the transition to digital television, the Commission has an obligation to manage the spectrum efficiently and in the public interest and to take account of the legitimate interests of ALL THOSE with a stake in the transition -- including RADIO BROADCASTERS such as CEMC. The concerns expressed in these Comments by CEMC are genuine. CEMC respectfully urges the Commission to consider the matters which it has raised and, if necessary, invite additional public comment.

Respectfully submitted,

**CREATIVE EDUCATIONAL MEDIA  
CORPORATION**

By:   
Cary S. Tepper

Its Counsel

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November 20, 1995

**Exhibit No. 1**

**ENGINEERING STATEMENT IN SUPPORT OF COMMENTS  
BY CREATIVE EDUCATIONAL MEDIA CORPORATION  
IN THE MATTER OF  
ADVANCED TELEVISION SYSTEMS MM DOCKET NO. 87-268**

**NOVEMBER 1995**

**ENGINEERING STATEMENT IN SUPPORT OF COMMENTS  
BY CREATIVE EDUCATIONAL MEDIA CORPORATION  
IN THE MATTER OF  
ADVANCED TELEVISION SYSTEMS MM DOCKET NO. 87-268**

**NOVEMBER 1995**

**INTRODUCTION**

The following statement has been prepared on behalf of **Creative Educational Media Corporation, Inc. (Creative)**, licensee of non-commercial FM radio stations KNYD, Broken Arrow, Oklahoma and KMSI, Moore, Oklahoma and NCE FM translators in Oklahoma and Texas.

*Communications Technologies, Inc. ("CTI")* has been retained by **Creative Educational Media Corporation, Inc.** to prepare the following comments in the matter of MM Docket 87-268. In the course of preparing numerous filings with the Commission, CTI routinely assists clients in locating suitable transmitter sites for new and/or modified radio and TV facilities. Affiant frequently provides expert testimony before local governing bodies concerning proposed tower construction.

It has come to **Creative's** attention that the Commission's requirement in this proceeding that TV stations operating with simultaneous NTSC and ATV transmission facilities on different frequencies may significantly impact the availability of tower space for NCE and commercial FM stations, as well as other users of the RF spectrum. This impact comes from the finite capability of the television tower to hold antennas and the fact that the addition of one or more ATV antennas on a tower will, in some cases, force FM stations off the TV tower.

The Commission is very much aware of the difficulties involved in obtaining local approvals for new tower construction in many portions of the Country. A lack of local approvals for tower construction is a common reason for AM and FM stations to seek an extension of construction permit and numerous trade associations including NAB, ARRL, SBE and PCIA have lobbied for Federal assistance for tower proposals.

In the case of NCE FM stations such as KNYD, which are co-located with a channel six television station, the impact on existing FM service areas and loss of existing service to the public could be devastating. This situation is explored fully below.

It is noted that in Paragraph 4 of the NPRM/NOI of MM Docket No. 87-268 the Commission stated that “in deciding what rules should govern the transition to digital television, we recognize our obligation to manage the spectrum efficiently and in the public interest and to take account of the legitimate interests of all those with a stake in the transition.” emphasis added. **Creative** believes that FM broadcasters and other users of space on television towers are included in the group of legitimate interests in the ATV proceeding.

### **NCE FM SITE CONSIDERATIONS & LIMITATIONS**

*Section 73.525* of the Commission’s Rules and Regulations provides specific technical standards for NCE FM stations located between 154 and 265 kilometers from a television Channel 6 station. Subpart (d) of the Rules allows the collocation of Channel 6 and a NCE FM station without specific consideration of the population within the NCE FM interfering contour to Channel 6. This portion of the Rules was developed as a method of minimizing interference to Channel 6 reception, recognizing that the relationship between the FM interfering signal and the TV signal at a viewer’s TV set are best controlled when both signals are transmitted from the same location with similar antenna types.

*Section 73.525 (d)* allows collocation within 0.25 miles (0.4 kilometers) of the affected Channel 6 TV station. A search of the FCC tower file has been made and there are no existing TV towers within 0.4 kilometers of the KOTV tower on which the KNYD FM antenna is currently located. The closest tower is that of KOKI TV, Ch 23, Tulsa, OK at a distance of 0.7 kilometers. The next closest tower is that of Tulsa, Oklahoma TV station KTFO, Channel 41 at a distance of 1.7 kilometers. The KOTV tower is currently used by KJRH, Ch 2, KOTV Ch 6, KOED Ch 11 and KWHB Ch 47. KOTV is in the unenviable position of having three VHF broadcasters on its tower, all of whom must install new UHF transmission equipment on the tower. KNYD is very concerned that the ATV needs of these broadcasters will make its current site unavailable.

The impact to KNYD, under the current FCC *Section 73.525* Rules would be devastating as seen below:

1. The KOKI antenna height above average terrain (HAAT) is 399 meters. KNYD is licensed for 100 kW at an antenna HAAT of 499 meters. Allowing for the KOKI antenna, KNYD, should it be forced to relocated to the KOKI site, would be forced to reduce its HAAT by at least 120 meters (400 feet) significantly reducing the size of its existing service area and causing outlying listeners in rural areas to lose an existing service.



KNYD and the public would be further harmed by the loss of signal as many of the translators in its fringe area might be unable to obtain a signal level of sufficient strength to be rebroadcast.

2. *Section 73.525 (b)* limits the population within the NCE FM interfering contour for new stations and states that existing stations requesting to modify their facilities should remove interference to two persons for each person who will receive new interference. At the KOKI TV tower, an assumed KNYD 100 kW at 379 meter HAAT facility will include 184,520 persons within its Channel 6, 90.4 dBu F(50,10) interfering contour. Subpart (b)(5) of *Section 73.525* states that the Commission will deal with loss of site matters on a case-by-case basis. KNYD believes that the Commission must be appraised of situations such as KNYD's that may go far beyond any special processing previously considered by the FM and TV Groups in the Mass Media Bureau.

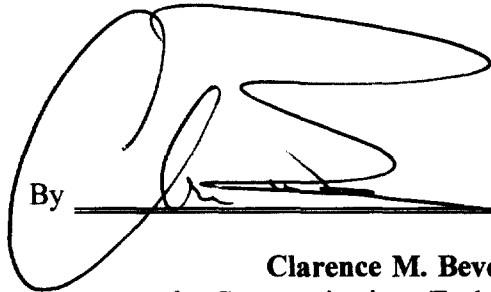
KNYD is not alone. There are numerous other NCE-FM and Channel 6 television collocations across the country. Just a few of the markets include Philadelphia and Johnstown, Pennsylvania, Columbus, Ohio, Portland , Maine, and San Luis Obispo, California.

### **CONCLUSION**

It has been demonstrated herein that the KOTV tower on which the KNYD(FM) antenna is located is heavily loaded with existing TV antennas. The ATV proceeding mandates that these stations add UHF TV transmission capability on the tower which will further increase the weight and wind loading. In order for the TV stations to meet their ATV commitment, it may be necessary for other antenna loads (such as KNYD) to be removed from the tower, causing a hardship to the NCE FM station and the public associated with potential loss of service.

To develop a complete picture of the impact that the ATV proceeding will have on the resources of the Audio Services division of the Mass Media Bureau, it is believed necessary for the Commission to look at the NCE(FM) Channel 6 TV collocations across the United States. The Commission must also be aware that commercial FM stations and TV stations share towers due to the common need for elevation to achieve the required service area. The additional loading of UHF TV antennas on existing towers for ATV implementation could force many commercial FM broadcasters from their sites, creating significant disruption or loss of existing FM service to the public.

The foregoing was prepared on behalf of **Creative Educational Media Corporation** by Clarence M. Beverage of *Communications Technologies, Inc.*, Marlton, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. The statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements he believes them to be true and correct.

By  \_\_\_\_\_

**Clarence M. Beverage**  
for Communications Technologies, Inc.  
Marlton, New Jersey

**SUBSCRIBED AND SWORN TO** before me,

this 14th day of November, 1995,

*Esther Sperbeck*, NOTARY PUBLIC

ESTHER G. SPERBECK  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES OCT 15, 1997

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 20th day of November, 1995, I have served a copy of the foregoing "**Comments**" first-class, postage-prepaid, on the following:

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Cary S. Tepper, Esq.

\*denotes Delivery By Hand